



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**  
**1250 CONNECTICUT AVENUE, NW**  
**SUITE 700**  
**WASHINGTON DC 20036**

**COPY MAILED**

JUN 1 2 2009

**OFFICE OF PETITIONS**

In re Application of :  
Alain Delache et al :  
Application No. 10/506,980 : DECISION ON REQUEST FOR REFUND  
Filed: September 8, 2004 :  
Attorney Docket No. 062221 :  
:

This is a decision on the Request For Refund filed November 14, 2008.

The request is **DISMISSED**.

The request for refund is dismissed because section 1.26(b) makes clear that refunds for payment of large entity fees are governed by § 1.28(a). Section 1.28(a) requires a refund request within three months of payment of the large entity fee, **and an assertion of small entity status**. Petitioner has not complied with the above. Additionally, the voluntary payment of the large entity extension and amendment fees based on a loss of entitlement to small entity status cannot be said to have been done in error. As entitlement to small entity status was in fact lost, payment of a large entity fee was not inappropriate.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/Karen Creasy/  
Karen Creasy  
Petitions Examiner  
Office of Petitions